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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/650,867	08/30/2000	Suzanne P. Hassell	061607-1390	2151

24504 7590 06/16/2006

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EXAMINER

SCHUBERT, KEVIN R

ART UNIT	PAPER NUMBER
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2137

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/650,867

Applicant(s)

HASSELL ET AL.

Examiner

Kevin Schubert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-5,7-11,16,18,62-64,66-79 and 81-111 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-5,7-11,16,18,62-64,66-79,81-111 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 3-5,7-11,16,18,62-64,66-79, and 81-111 have been considered.

Claim Rejections - 35 USC § 103

5 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness
rejections set forth in this Office action:

10 (a) A patent may not be obtained though the invention is not identically disclosed or described as
set forth in section 102 of this title, if the differences between the subject matter sought to be
patented and the prior art are such that the subject matter as a whole would have been obvious
at the time the invention was made to a person having ordinary skill in the art to which said
subject matter pertains. Patentability shall not be negated by the manner in which the invention
was made.

15 Claims 105-111 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dinh, U.S.
Patent No. 6,434,615, in view of the applicant's admitted prior art (AAPA).

As per claim 105, the applicant discloses a computer-readable medium having a program, the
program comprising the following steps which are met by Dinh and AAPA:

- 20 a) receiving a specification from the first communication device over a first communication
channel, the specification comprising at least one predefined identifier of the second communication
device, the first communication device located in a first network operated by a first provider and the
second communication device located in a second network operated by a second provider different from
the first provider (Dinh: Col 6, lines 4-16; AAPA: Fig 1);
- 25 b) receiving, from the first communication device, a request to establish connectivity between the
first and the second communication device (Dinh: Col 6, lines 4-16; AAPA: Fig 1);
- c) identifying a predefined second communication channel to the second communication device
that is associated with the predefined identifier (Dinh: Col 6, lines 4-16);

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d) coupling the first communication channel to the second communication channel to establish connectivity between the first communication device and the second communication device (Dinh: Col 6, lines 4-16);

e) receiving at least troubleshooting data and a test from the first communication device (Dinh: Col 5, lines 5-30);

f) communicating the received troubleshooting data and the test to the second communication device (Dinh: Col 5, lines 5-30);

Dinh appears to be silent as to whether the first and second communication devices, which establish connectivity, are located *in different networks*. AAPA discloses the common and well-known idea that connectivity can be established between devices in different networks. It would have been obvious to one of ordinary skill in the art at the time the invention was filed to combine the ideas of AAPA with those of Dinh for at least the reason that doing so makes the system more robust and versatile by allowing for communication between devices located in different networks.

As per claims 106-107, the applicant describes the method of claim 105, which is met by Dinh in view of AAPA, with the following limitation which is met by AAPA:

wherein the first provider is a network service provider and the second provider is an access network provider (AAPA: Fig 1).

As per claims 108-109 and 111, the applicant describes the method of claims 105, which is met by Dinh in view of AAPA, with the following limitation which is met by AAPA:

Wherein a portion of the access provider communication network is a frame relay network (AAPA: Specification page 2).

As per claim 110, the applicant describes the method of claim 105, which is met by Dinh in view of AAPA, with the following limitation which is met by Dinh:

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Wherein a portion of the second network is an internet protocol (IP) network (Dinh: Col 6, lines 4-17).

Claims 3-5, 7-11, 16, 62-64, 66-69, 74-84, 86-92, 95-99, and 101-104 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dinh, U.S. Patent No. 6,434,615, in view of the applicant's admitted prior art (AAPA) in further view of Son, U.S. Patent No. 6,697,376.

As per claims 63, 78, and 87, the applicant discloses a method for providing connectivity between a first communication device and a second communication device comprising the following limitations

which are met by Dinh, AAPA, and Son:

a) receiving a specification from the first communication device over a first communication channel, wherein the first communication device is located in a network operated by a first provider, the specification comprising at least one predefined identifier of the second communication device (Dinh: Col 6, lines 4-16; AAPA: Fig 1);

b) receiving, from the first communication device, a request to establish connectivity between the first and the second communication device, wherein the second communication device is located in a second network operated by a second provider different than the first provider (Dinh: Col 6, lines 4-16; AAPA: Fig 1);

c) identifying a predefined second communication channel to the second communication device that is associated with the predefined identifier (Dinh: Col 6, lines 4-16; Son: Col 10, lines 16-29);

d) configuring a network device to establish a route between the first communication device and the second communication device using the identified second communication channel (Dinh: Col 6, lines 4-16; Son: Col 10, lines 16-29);

e) receiving at least troubleshooting data and a test from the first communication device (Dinh: Col 5, lines 5-30);

f) communicating the received troubleshooting data and the test to the second communication device (Dinh: Col 5, lines 5-30);

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Dinh is silent as to whether the first and second communication devices, which establish connectivity, are located *in different networks*. AAPA discloses the common and well-known idea that connectivity can be established between devices in different networks. It would have been obvious to one of ordinary skill in the art at the time the invention was filed to combine the ideas of AAPA with those of Dinh for at least the reason that doing so makes the system more robust and versatile by allowing for communication between devices located in different networks.

Dinh in view of AAPA disclose limitations of the above claim and that a second communication channel is established (Dinh: Col 6, lines 11-13). However, it is unclear whether such a communication channel is predefined, such that a route is established using the identified predefined channel. Son discloses the well-known idea that a communication channel may be predefined and a route may be established using the identified predefined channel. It would have been obvious to one of ordinary skill in the art at the time the invention was filed to combine the ideas of Son with those of Dinh in view of AAPA because doing so may reduce latency and delay.

As per claims 3-5,7-9, and 16, the applicant describes the method of claim 63, which is met by Dinh in view of AAPA in further view of Son, with the following limitation which is also met by AAPA:

Wherein said first communication device is located in a network service provider communication system (AAPA: Fig 1, Specification: pages 2-4).

As per claims 10,11,62,69,76, and 84, the applicant has described the method of claims 63 and 78, which are met by Dinh in view of AAPA in further view of Son, with the following limitation which is also met by Dinh:

Wherein the predefined identifier is a circuit ID, and the circuit ID is associated with an IP address previously assigned to the second communication device (Dinh: Col 6, lines 4-17).

As per claims 64 and 79, the applicant describes the method of claim 63 and 78, which is met by Dinh in view of AAPA in further view of Son, with the following limitation which is met by AAPA:

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Wherein the predefined identifier is an IP address and the predefined communication channel is a VC (AAPA: Specification page 2, Fig 1).

As per claims 65-68 and 80-83, the applicant describes the method of claims 63 and 78, which are met by Dinh in view of AAPA in further view of Son, with the following limitation which is met by AAPA:

Wherein the first communication device is located in a first network operated by a first provider, and the second communication device is located in a second network operated by a second provider different from the first provider (AAPA: Fig 1).

As per claims 72 and 86, the applicant describes the method of claims 63 and 78, which are met by Dinh in view of AAPA in further view of Son, with the following limitation which is met by AAPA:

Further comprising the step of verifying the request before the configuring step (AAPA: Specification page 7).

As per claims 74,75, and 77, the applicant describes the method of claim 63, which is met by Dinh in view of AAPA in further view of Son, with the following limitation which is met by AAPA:

Wherein a portion of the access provider communication network is a frame relay network (Specification: page 2).

As per claim 103, the applicant describes the method of claim 87, which is met by Dinh in view of AAPA in further view of Son, with the following limitation which is met by Dinh:

Wherein a portion of the second network is an internet protocol (IP) network (Dinh: Col 6, lines 4-17).

As per claim 97, the applicant describes the method of claim 87, which is met by Dinh in view of AAPA in further view of Son, with the following limitation which is met by AAPA:

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Wherein the predefined identifier is an IP address and the predefined communication channel is a VC (AAPA: Specification page 2, Fig 1);

As per claims 88-89, and 98, the applicant describes the method of claim 87, which is met by
5 Dinh in view of AAPA in further view of Son, with the following limitation which is met by AAPA:

wherein the first provider is a network service provider and the second provider is an access network provider (AAPA: Fig 1).

As per claims 90-92,96, and 99, the applicant describes the method of claim 87, which is met by
10 Dinh in view of AAPA in further view of Son, with the following limitations which are met by Dinh:

Wherein the predefined identifier is a circuit ID, and the circuit ID is associated with an IP address previously assigned to the second communication device (Dinh: Col 6, lines 4-17).

As per claim 95, the applicant describes the method of claim 87, which is met by Dinh in view of
15 AAPA in further view of Son, with the following limitation which is met by AAPA:

Further comprising the step of verifying the request before the configuring step (AAPA: Specification page 7).

As per claims 101-102 and 104, the applicant describes the method of claim 87, which is met by
20 Dinh in view of AAPA in further view of Son, with the following limitation which is met by AAPA:

Wherein a portion of the access provider communication network is a frame relay network (AAPA: Specification page 2).

Claims 70,71, and 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dinh in
25 view of AAPA in further view of Son in further view of Montenegro (Montenegro, G; Gupta, V. RFC 2356-Sun's SKIP Firewall Traversal for Mobile IP. June 1998. page 4).

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As per claims 70-71 and 85, the applicant describes the method of claims 63 and 78, which are met by Dinh in view of AAPA in further view of Son, with the following limitation which is met by Dinh and Montenegro:

a) at the network service provider, assigning a permanent IP address to the second

5 communication device (Dinh: Col 6, lines 4-17; Montenegro: page 4);

b) associating the circuit ID with the assigned IP address (Dinh: Col 6, lines 4-17; Montenegro: page 4);

Dinh in view of AAPA in further view of Son discloses all the limitations of independent claims 63 and 78. However, Dinh in view of AAPA in view of Son does not appear to disclose assigning a
10 *permanent* IP address. Montenegro discloses the idea of assigning permanent or temporary IP addresses depending on the needs of the system. It would have been obvious to one of ordinary skill in the art at the time the invention was filed to combine the ideas of Montenegro with those of Dinh in view of AAPA in further view of Son and assign permanent IP addresses in a system more apt to utilize permanent IP addressing.

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Claims 18,73, and 94 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dinh in view of AAPA in further view of Son in further view of Dowling, U.S. Patent No. 6,574,239.

As per claims 18,73, and 94, the applicant describes the method of claims 63 and 87, which are
20 met by Dinh in view of AAPA in further view of Son, with the following limitations which are met by Dowling:

a) monitoring activity between the first communications device and the second communications device (Dowling: Col 13, lines 21-25);

b) terminating connectivity between the first communications device and the second
25 communications device after a predefined period of no activity (Dowling: Col 13, lines 21-25);

Dinh in view of AAPA in further view of Son discloses all the limitations of claim 63. However, Dinh in view of AAPA in further view of Son does not appear to disclose terminating a connection after a

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predefined period of no activity. Dowling discloses this limitation. It would have been obvious to one of ordinary skill in the art at the time the invention was filed to combine the ideas of Dowling with those of Dinh in view of AAPA in further view of Son because terminating a connection after a predefined period of no activity ensures that system resources are not wasted by a stale connection.

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Claims 93 and 100 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dinh in view of AAPA in further view of Son in further view of Montenegro (Montenegro, G; Gupta, V. RFC 2356-Sun's SKIP Firewall Traversal for Mobile IP. June 1998. page 4).

10 As per claims 93 and 100, the applicant describes the method of claim 87, which is met by Dinh in view of AAPA in further view of Son, with the following limitation which is met by Dinh and Montenegro:

a) at the network service provider, assigning a permanent IP address to the second communication device (Dinh: Col 6, lines 4-17; Montenegro: page 4);

b) associating the circuit ID with the assigned IP address (Dinh: Col 6, lines 4-17; Montenegro: page 4);

15

Dinh in view of AAPA in further view of Son discloses all the limitations of independent claim 63. However, Dinh in view of AAPA in further view of Son does not disclose assigning a *permanent* IP address. Montenegro discloses the idea of assigning permanent or temporary IP addresses depending on the needs of the system. It would have been obvious to one of ordinary skill in the art at the time the invention was filed to combine the ideas of Montenegro with those of Dinh in view of AAPA in further view of Son and assign permanent IP addresses in a system more apt to utilize permanent IP addressing.

20

Response to Arguments

Applicant's arguments, see Remarks filed 5/1/06, with respect to the 103(a) rejection under Dinh in view of AAPA of claims 63, 78, and 87 have been fully considered, but they are moot in view of the new ground(s) of rejection.

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Applicant's arguments with respect to claim 105 have been fully considered, but they are not persuasive. Applicant presents the following arguments:

1) The combination does not teach a "predefined communication channel"

2) The combination does not teach "configuring a network device to establish a route between the first communication device and the second communication device using the identified second communication channel"

3) hindsight

Regarding 1), Applicant argues that the communication channel which is established cannot meet a "predefined communication channel" because it could be established dynamically. Even if one were to construe the Dinh system as teaching dynamic generation of a communication channel, Examiner submits that the claim language, as presented, is still met. As taught by Dinh, a communication channel is established when the first diagnostic server application decodes the diagnostic command for the first remote standalone computer (Dinh: Col 6, lines 8-13). After a communication channel is defined, data packets may be transmitted between computing devices. Accordingly, a "predefined" communication channel is identified and utilized when packets are transmitted/received.

Regarding 2), this limitation does not appear in claim 105. Accordingly, the argument is moot.

Regarding 3), in response to Applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the Applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

5 A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX
10 MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Schubert whose telephone number is (571) 272-4239. The examiner can normally be reached on M-F 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,
15 Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through
20 Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

25 KS


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